

ROBERT M. YASPAN (CA Bar No. 51867)
JOSEPH G. McCARTY (CA Bar No. 151020)
JASON H. GOROWITZ (CA Bar No. 225428)
LAW OFFICES OF ROBERT M. YASPAN
21700 Oxnard Street, Suite 1750
Woodland Hills, California 91367
Telephone: (818) 905-7711
Facsimile: (818) 501-7711

Attorneys for Defendants/Debtors-in-Possession
GGW DIRECT, LLC, GGW BRANDS, LLC
and GGW EVENTS, LLC

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

WYNN LAS VEGAS LLC d/b/a
WYNN LAS VEGAS, a Nevada
limited liability company

Plaintiff,

vs.

GGW DIRECT, LLC, a Delaware limited
liability company; GGW BRANDS, LLC, a
Delaware limited liability company; GGW
EVENTS, LLC, a Delaware limited liability
company; MANTRA FILMS, INC., a
suspended Oklahoma corporation; BLUE
HORSE TRADING, LLC, a California
limited liability company; PEPE BUS, LLC,
an inactive Montana limited liability
company; SANDS MEDIA, INC., a revoked
Nevada domestic corporation; JOSEPH R.
FRANCIS, an individual; DAVID R.
HOUSTON, an individual; and DAVID R.
HOUSTON, LTD., a Nevada professional
corporation, doing business as THE LAW
OFFICE OF DAVID R. HOUSTON,

Defendants.

) Adversary Case No.: 13-01050

) Chapter 11

) NOTICE OF MOTION AND MOTION TO
) TRANSFER VENUE; MEMORANDUM OF
) POINTS AND AUTHORITIES

) Date: May 8, 2013

) Time: 8:30 a.m.

) Place: Courtroom 2

) U.S. Bankruptcy Court

) District of Nevada

) Foley Federal Building

) 300 Las Vegas Boulevard South

) Las Vegas, Nevada 89101

1 TO THE HONORABLE MIKE K. NAKAGAWA, ALL PARTIES IN INTEREST AND THEIR
2 ATTORNEYS OF RECORD:

3 PLEASE TAKE NOTICE that pursuant to 28 U.S.C. § 1412 and Fed. R. Bankr. P. 7087,
4 defendants/debtors-in-possession GGW Direct, LLC, GGW Brands, LLC and GGW Events,
5 LLC (“Debtors”) hereby request a transfer of venue (“Motion”) from this Court to the United
6 States Bankruptcy Court for the Central District of California (the “Home Court”), where
7 Debtors respective bankruptcy cases are currently pending.¹ Transfer of venue to the Home
8 Court is sought in the interest of justice and for the convenience of the parties.

9 The facts of this action establish that transfer of venue to the Home Court is in the
10 interest of justice because (1) the resolution of this action will have a very significant impact on
11 administration of Debtors’ estates given that this action may result in a claim exceeding \$10.3
12 million; (2) there is a strong presumption in favor of transferring venue to the Home Court; and
13 (3) judicial efficiency will be served by consolidating this action with the ongoing bankruptcies
14 being handled by the Home Court, further enabling the Home Court to efficiently and effectively
15 adjudicate all issues related to plaintiff Wynn Las Vegas LLC d/b/a Wynn Las Vegas’ (“Wynn”)
16 multi-million dollar claims against Debtors’ estates.

17 Additionally, transfer of venue to the Home Court because Debtors are each Delaware
18 limited liability companies. As such, neither Nevada law nor California law – if the venue
19 transfer is granted – will be applied. Instead, Delaware law will be applied, and therefore it
20 would be untrue to even remotely suggest that Debtors are venue shopping, which they are not.

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27 ¹ The Central District of California Chapter 11 Bankruptcy case number for GGW Direct, LLC is 2:13-bk-
28 15132-SK. The Central District of California Chapter 11 Bankruptcy case number for GGW Brands, LLC is 2:13-
bk-15130-SK. The Central District of California Chapter 11 Bankruptcy case number for GGW Events, LLC is 2-
13-bk-15134-SK. (The Chapter 11 Bankruptcy cases for GGW Direct, LLC, GGW Brands, LLC and GGW Events,
LLC are collectively referred to herein as the “GGW Bankruptcy Cases”).

1 This Motion is supported by the attached Memorandum of Points and Authorities, the
2 concurrently filed Notice of Hearing, the concurrently filed Declaration of Robert M. Yaspan,
3 the entire record before the Court in this adversary proceeding and such other evidence, as may
4 be presented, at the hearing on this Motion.

5
6 DATED: April 1, 2013

LAW OFFICES OF ROBERT M. YASPAN

7
8 By: _____

ROBERT M. YASPAN
JOSEPH G. McCARTY
JASON H. GOROWITZ
Attorneys for Defendants/Debtors-in-Possession
GGW DIRECT, LLC, GGW BRANDS,
LLC and GGW EVENTS, LLC

MEMORANDUM OF POINTS AND AUTHORITIES

A. Factual and Procedural Background.

On February 27, 2013 (the “Petition Date”), defendants/debtors-in-possession GGW Direct, LLC, GGW Brands, LLC and GGW Events, LLC (“Debtors”) separately filed voluntary Chapter 11 petitions, which are each presently pending before the United States Bankruptcy Court for the Central District of California, Los Angeles Division (the “Home Court”). The Chapter 11 case number for GGW Direct, LLC is 2:13-bk-15132-SK. The Chapter 11 case number for GGW Brands, LLC is 2-13-bk-15130-SK. The Chapter 11 case number for GGW Events, LLC is 2-13-bk-15134-SK. (The Chapter 11 cases for GGW Direct, LLC, GGW Brands, LLC and GGW Events, LLC are collectively referred to herein as the “GGW Bankruptcy Cases”.)

Since the Petition Date, Debtors have remained in possession of their assets pursuant to Bankruptcy Code §§ 1107 and 1108.

Before removal, Debtors and plaintiff Wynn Las Vegas LLC d/b/a Wynn Las Vegas’ (“Wynn”) were parties to the civil action captioned *Wynn Las Vegas LLC d/b/a Wynn Las Vegas vs. GGW Direct, LLC, et al.*, case number A-12-660288-B, which was pending in the Eighth Judicial District Court, Clark County, Nevada (the “Nevada State Court Action”).

Pursuant to 28 U.S.C. § 1452(a) and Fed. R. Bankr. P. 9027, Debtors removed the Nevada State Court Action to the United States Bankruptcy Court for the District of Nevada on March 26, 2013.² (Docket No. 1.)

Through this Motion to Transfer Venue (the “Motion”), Debtors seek to have the Home Court decide the merits of the removed Nevada State Court Action. The Motion should not be viewed as an attempt to forum shop since Debtors are each Delaware limited liability companies and accordingly, neither Nevada law nor California law will be applied if the venue transfer is granted – will be applied. Instead, Delaware law will be applied and therefore no party will be

² The complete record of pleadings and documents filed in the Nevada State Court Action are voluminous and Debtors are in the process of compiling them. Debtors will file the complete record of the Nevada State Court Action pleadings with this Court within 30 days from the date of the Notice of Removal, unless otherwise ordered by this Court.

1 advantaged or disadvantaged if this Court grants the herein Motion and transfers this adversary
2 to the Home Court.

3 **B. Venue Should Be Transferred.**

4 Pursuant to 28 U.S.C. § 1412, “[a] district court may transfer a case or proceeding under
5 title 11 to a district court for another district, in the interest of justice or for the convenience of
6 the parties.” This statute is “used to analyze the request for a change of venue in a proceeding
7 related to a bankruptcy case.” (*Sonorx v. Coudert Bros., LLP*, Case No. C-07-1075 SC (N.D.
8 Cal. 2007) 2007 WL 2470125 at *1, citing *A.B. Real Estate, Inc. v. Bruno’s Inc. (In re Bruno’s,*
9 *Inc.* (Bankr. N.D. Ala. 1998) 227 B.R. 311, 323.)

10 The “interest of justice” prong is analyzed under “a broad and flexible standard which
11 must be applied on a case-by-case basis.” (*Id.*, quoting *Gulf States Exploration Co. v. Manville*
12 *Forest Prods. Corp. (In re Manville Forest Prods. Corp.)* (2d Cir. 1990) 896 F.2d 1384, 1391.)

13 Factors courts consider in the interest of justice prong include:

- 14 (1) economics of estate administration;
- 15 (2) the presumption in favor of the “home court”;
- 16 (3) judicial efficiency;
- 17 (4) the ability to receive a fair trial;
- 18 (5) the state’s interest in having local controversies decided within its borders by
- 19 those familiar with its laws;
- 20 (6) the enforceability of the judgment; and
- 21 (7) the plaintiff’s original choice of forum.

22 (*Id.*, citing *In re Bruno’s Inc.*, (Bankr. N.D. Ala. 1998) 227 B.R. at 324-325.)

23 The most important factor, however, is “whether the requested transfer would promote
24 the economic and efficient administration of the estate.” (*Id.*, quoting *In re Commonwealth Oil*
25 *Refining Co., Inc.* (5th Cir. 1979) 596 F.2d 1239.)

26 In *Sonorx*, the defendants were sued for professional negligence in California. (*Id.*)
27 After the defendants filed Chapter 11 in the Southern District of New York, the plaintiff filed a
28 proof of claim based on the amount claimed in the California lawsuit. (*Id.*) The defendants

1 removed the action to the California District Court, and the plaintiff moved for remand. (*Id.*)
 2 The California District Court denied remand because the “Plaintiff’s claims against [the
 3 Defendants] are core bankruptcy matters and the Plaintiff’s claims against the Individual Partner
 4 Defendants of the firm are related to the Bankruptcy Case.” (*Id.*) The Defendants subsequently
 5 moved to transfer venue of the case to their home bankruptcy court in New York. (*Id.*) The
 6 Court granted the change of venue, in part, because:

7 “Analysis of the relevant factors weighs heavily in favor of transfer. First,
 8 resolution of the ... claims ... will have a significant effect on the economics of
 9 estate administration because [the] proof of claim carries a potential liability of
 10 over \$25 million. Second, the “home court” for the estate is the Southern District
 11 of New York. Third, judicial efficiency will be served by administering all
 12 claims against the estate in the same forum. Finally, the remaining factors also
 13 weigh in favor of transfer. The most efficient and economical place to administer
 14 the [bankruptcy] estate is in the [home court].”

15 (*Id.* at *2; see also *Cornerstone Dental, PLLC v. Smart Dental Care* (Bankr. D. Idaho 2008)
 16 2008 WL 907374 at *2 (“The Court determines that the interests of justice are best served by
 17 transferring this proceeding, including the unresolved motion to remand, to the [home court].”);
 18 *Seybolt v. Bio-Energy of Lincoln, Inc.* (Bankr. D. Mass. 1984) 38 B.R. 123, 128 (“As a conduit
 19 under the removal statute, this Court can only speculate as to the effect that this proceeding will
 20 have on [the debtor’s] Chapter 11 proceedings. The equitable considerations underlying a
 21 motion to remand are best addressed by the [home court].”); *Colarusso v. Burger King Corp.*
 22 (Bankr. E.D. Pa. 1982) 21 B.R. 715, 724-725 (“The local bankruptcy court is the most
 23 convenient court to receive removal petitions and acts as the first court to review them. ... If the
 24 local bankruptcy court is not the “home” court, it should transfer the case to the ‘home’ court.”).

25 Here, the relevant factors establish that transfer of venue to the Home Court is
 26 appropriate. First, the resolution of the removed Nevada State Court Action could have a very
 27 significant impact on the administration of Debtors’ respective estates given that the removed
 28 action could potentially result in a claim exceeding \$10.3 million for which Debtors could
 potentially be held jointly and severally liable. Additionally, Debtors’ respective estates will be
 diminished by the added costs of travel and having to maintain local Nevada bankruptcy
 counsel. Second, as noted in case law, there is a strong presumption in favor of transferring
 venue to the Home Court. Third, judicial efficiency will be served by administering all claims

1 against Debtors, including Wynn's potential claim exceeding \$10.3 million, in the Home Court.
 2 Moreover, the Home Court will be in a better position to fully grasp the potential impact
 3 decisions in the removed Nevada State Court Action will have on the administration of the
 4 respective estates because it will be most familiar with all the relevant facts of the parties. In
 5 addition, because Debtors are Delaware limited liability companies, the deciding court will have
 6 to apply Nevada law, and therefore Debtors' desired venue transfer should not be construed as
 7 forum shopping since it is not. For these and other reasons, the Court should transfer venue of
 8 this matter to the Home Court.

9 **C. The Convenience of the Parties Favors Transfer of Venue to the Home Court.**

10 The "interests of justice" prong and the "convenience of the parties" prong are
 11 disjunctive, and the moving party need only satisfy one. (See 28 U.S.C. § 1452(a).) The
 12 relevant factors courts consider regarding convenience include:

- 13 (1) location of plaintiff and defendant;
- 14 (2) ease of access to necessary proof;
- 15 (3) convenience of witnesses;
- 16 (4) availability of subpoena power for the unwilling witnesses; and
- 17 (5) the expense relating to obtaining witnesses.

18 (*Sonorx v. Coudert Bros., LLP*, 2007 WL 2470125 at *2 (granting transfer of venue because
 19 "though most of the witnesses and documents reside in California, they will also be available in
 20 New York").)

21 In this case, the Home Court is a more convenient forum for Debtors. Debtors'
 22 principals are located in the Los Angeles area and so are Debtors' attorneys. The removed
 23 Nevada State Court Action is essentially an alter ego and judgment enforcement case and that
 24 can be readily handled and managed by the Home Court. Most, if not all of Debtors' documents
 25 and witnesses will be available in the Central District of California. Finally, any added expense
 26 to witnesses and attorneys by maintaining venue in Las Vegas is far outweighed by the added
 27 expense to Debtors' estates if this Motion is not granted. For all these reasons, the Court should
 28 transfer venue of the removed Nevada State Court Action to Debtors' Home Court.

1 **D. Conclusion.**

2 Based on the foregoing, Debtors respectfully request that the Court enter an order
3 transferring venue of the removed Nevada State Court Action to the United States Bankruptcy
4 Court for the Central District of Nevada and grant Debtors such other and further relief as the
5 Court may deem just and proper.

6
7 DATED: April 1, 2013

LAW OFFICES OF ROBERT M. YASPAN

8
9 By: 

10 ROBERT M. YASPAN
11 JOSEPH G. McCARTY
12 JASON H. GOROWITZ
13 Attorneys for Defendants/Debtors-in-Possession
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15 LLC and GGW EVENTS, LLC
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